
HOUSE BILL 2570

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By Representatives Dickerson, O'Brien, Appleton, McCoy, Hasegawa, Roberts, Goodman, and Kagi

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1 AN ACT Relating to repealing minimum sentences for juveniles who
2 commit offenses related to motor vehicle theft; amending RCW 13.40.160;
3 creating a new section; and repealing RCW 13.40.308.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 13.40.160 and 2007 c 199 s 14 are each amended to read
6 as follows:

7 (1) The standard range disposition for a juvenile adjudicated of an
8 offense is determined according to RCW 13.40.0357.

9 (a) When the court sentences an offender to a local sanction as
10 provided in RCW 13.40.0357 option A, the court shall impose a
11 determinate disposition within the standard ranges, except as provided
12 in subsection (2), (3), (4), (5), or (6) of this section. The
13 disposition may be comprised of one or more local sanctions.

14 (b) When the court sentences an offender to a standard range as
15 provided in RCW 13.40.0357 option A that includes a term of confinement
16 exceeding thirty days, commitment shall be to the department for the
17 standard range of confinement, except as provided in subsection (2),
18 (3), (4), (5), or (6) of this section.

1 (2) If the court concludes, and enters reasons for its conclusion,
2 that disposition within the standard range would effectuate a manifest
3 injustice the court shall impose a disposition outside the standard
4 range, as indicated in option D of RCW 13.40.0357. The court's finding
5 of manifest injustice shall be supported by clear and convincing
6 evidence.

7 A disposition outside the standard range shall be determinate and
8 shall be comprised of confinement or community supervision, or a
9 combination thereof. When a judge finds a manifest injustice and
10 imposes a sentence of confinement exceeding thirty days, the court
11 shall sentence the juvenile to a maximum term, and the provisions of
12 RCW 13.40.030(2) shall be used to determine the range. A disposition
13 outside the standard range is appealable under RCW 13.40.230 by the
14 state or the respondent. A disposition within the standard range is
15 not appealable under RCW 13.40.230.

16 (3) When a juvenile offender is found to have committed a sex
17 offense, other than a sex offense that is also a serious violent
18 offense as defined by RCW 9.94A.030, and has no history of a prior sex
19 offense, the court, on its own motion or the motion of the state or the
20 respondent, may order an examination to determine whether the
21 respondent is amenable to treatment.

22 The report of the examination shall include at a minimum the
23 following: The respondent's version of the facts and the official
24 version of the facts, the respondent's offense history, an assessment
25 of problems in addition to alleged deviant behaviors, the respondent's
26 social, educational, and employment situation, and other evaluation
27 measures used. The report shall set forth the sources of the
28 evaluator's information.

29 The examiner shall assess and report regarding the respondent's
30 amenability to treatment and relative risk to the community. A
31 proposed treatment plan shall be provided and shall include, at a
32 minimum:

33 (a)(i) Frequency and type of contact between the offender and
34 therapist;

35 (ii) Specific issues to be addressed in the treatment and
36 description of planned treatment modalities;

37 (iii) Monitoring plans, including any requirements regarding living

1 conditions, lifestyle requirements, and monitoring by family members,
2 legal guardians, or others;

3 (iv) Anticipated length of treatment; and

4 (v) Recommended crime-related prohibitions.

5 The court on its own motion may order, or on a motion by the state
6 shall order, a second examination regarding the offender's amenability
7 to treatment. The evaluator shall be selected by the party making the
8 motion. The defendant shall pay the cost of any second examination
9 ordered unless the court finds the defendant to be indigent in which
10 case the state shall pay the cost.

11 After receipt of reports of the examination, the court shall then
12 consider whether the offender and the community will benefit from use
13 of this special sex offender disposition alternative and consider the
14 victim's opinion whether the offender should receive a treatment
15 disposition under this section. If the court determines that this
16 special sex offender disposition alternative is appropriate, then the
17 court shall impose a determinate disposition within the standard range
18 for the offense, or if the court concludes, and enters reasons for its
19 conclusions, that such disposition would cause a manifest injustice,
20 the court shall impose a disposition under option D, and the court may
21 suspend the execution of the disposition and place the offender on
22 community supervision for at least two years. As a condition of the
23 suspended disposition, the court may impose the conditions of community
24 supervision and other conditions, including up to thirty days of
25 confinement and requirements that the offender do any one or more of
26 the following:

27 (b)(i) Devote time to a specific education, employment, or
28 occupation;

29 (ii) Undergo available outpatient sex offender treatment for up to
30 two years, or inpatient sex offender treatment not to exceed the
31 standard range of confinement for that offense. A community mental
32 health center may not be used for such treatment unless it has an
33 appropriate program designed for sex offender treatment. The
34 respondent shall not change sex offender treatment providers or
35 treatment conditions without first notifying the prosecutor, the
36 probation counselor, and the court, and shall not change providers
37 without court approval after a hearing if the prosecutor or probation
38 counselor object to the change;

1 (iii) Remain within prescribed geographical boundaries and notify
2 the court or the probation counselor prior to any change in the
3 offender's address, educational program, or employment;

4 (iv) Report to the prosecutor and the probation counselor prior to
5 any change in a sex offender treatment provider. This change shall
6 have prior approval by the court;

7 (v) Report as directed to the court and a probation counselor;

8 (vi) Pay all court-ordered legal financial obligations, perform
9 community restitution, or any combination thereof;

10 (vii) Make restitution to the victim for the cost of any counseling
11 reasonably related to the offense;

12 (viii) Comply with the conditions of any court-ordered probation
13 bond; or

14 (ix) The court shall order that the offender shall not attend the
15 public or approved private elementary, middle, or high school attended
16 by the victim or the victim's siblings. The parents or legal guardians
17 of the offender are responsible for transportation or other costs
18 associated with the offender's change of school that would otherwise be
19 paid by the school district. The court shall send notice of the
20 disposition and restriction on attending the same school as the victim
21 or victim's siblings to the public or approved private school the
22 juvenile will attend, if known, or if unknown, to the approved private
23 schools and the public school district board of directors of the
24 district in which the juvenile resides or intends to reside. This
25 notice must be sent at the earliest possible date but not later than
26 ten calendar days after entry of the disposition.

27 The sex offender treatment provider shall submit quarterly reports
28 on the respondent's progress in treatment to the court and the parties.
29 The reports shall reference the treatment plan and include at a minimum
30 the following: Dates of attendance, respondent's compliance with
31 requirements, treatment activities, the respondent's relative progress
32 in treatment, and any other material specified by the court at the time
33 of the disposition.

34 At the time of the disposition, the court may set treatment review
35 hearings as the court considers appropriate.

36 Except as provided in this subsection (3), after July 1, 1991,
37 examinations and treatment ordered pursuant to this subsection shall
38 only be conducted by certified sex offender treatment providers or

1 certified affiliate sex offender treatment providers under chapter
2 18.155 RCW. A sex offender therapist who examines or treats a juvenile
3 sex offender pursuant to this subsection does not have to be certified
4 by the department of health pursuant to chapter 18.155 RCW if the court
5 finds that: (A) The offender has already moved to another state or
6 plans to move to another state for reasons other than circumventing the
7 certification requirements; (B) no certified sex offender treatment
8 providers or certified affiliate sex offender treatment providers are
9 available for treatment within a reasonable geographical distance of
10 the offender's home; and (C) the evaluation and treatment plan comply
11 with this subsection (3) and the rules adopted by the department of
12 health.

13 If the offender violates any condition of the disposition or the
14 court finds that the respondent is failing to make satisfactory
15 progress in treatment, the court may revoke the suspension and order
16 execution of the disposition or the court may impose a penalty of up to
17 thirty days' confinement for violating conditions of the disposition.
18 The court may order both execution of the disposition and up to thirty
19 days' confinement for the violation of the conditions of the
20 disposition. The court shall give credit for any confinement time
21 previously served if that confinement was for the offense for which the
22 suspension is being revoked.

23 For purposes of this section, "victim" means any person who has
24 sustained emotional, psychological, physical, or financial injury to
25 person or property as a direct result of the crime charged. "Victim"
26 may also include a known parent or guardian of a victim who is a minor
27 child unless the parent or guardian is the perpetrator of the offense.

28 A disposition entered under this subsection (3) is not appealable
29 under RCW 13.40.230.

30 (4) If the juvenile offender is subject to a standard range
31 disposition of local sanctions or 15 to 36 weeks of confinement and has
32 not committed an A- or B+ offense, the court may impose the disposition
33 alternative under RCW 13.40.165.

34 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of
35 confinement, the court may impose the disposition alternative under RCW
36 13.40.167.

37 (6) When the offender is subject to a standard range commitment of
38 15 to 36 weeks and is ineligible for a suspended disposition

1 alternative, a manifest injustice disposition below the standard range,
2 special sex offender disposition alternative, chemical dependency
3 disposition alternative, or mental health disposition alternative, the
4 court in a county with a pilot program under RCW 13.40.169 may impose
5 the disposition alternative under RCW 13.40.169.

6 (7) RCW 13.40.193 shall govern the disposition of any juvenile
7 adjudicated of possessing a firearm in violation of RCW
8 9.41.040(2)(a)(iii) or any crime in which a special finding is entered
9 that the juvenile was armed with a firearm.

10 ~~(8) ((RCW 13.40.308 shall govern the disposition of any juvenile~~
11 ~~adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065,~~
12 ~~possession of a stolen motor vehicle as defined under RCW 9A.56.068,~~
13 ~~taking a motor vehicle without permission in the first degree under RCW~~
14 ~~9A.56.070, and taking a motor vehicle without permission in the second~~
15 ~~degree under RCW 9A.56.075.~~

16 ~~(9))~~ Whenever a juvenile offender is entitled to credit for time
17 spent in detention prior to a dispositional order, the dispositional
18 order shall specifically state the number of days of credit for time
19 served.

20 ~~((+10))~~ (9) Except as provided under subsection (3), (4), (5), or
21 (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127,
22 the court shall not suspend or defer the imposition or the execution of
23 the disposition.

24 ~~((+11))~~ (10) In no case shall the term of confinement imposed by
25 the court at disposition exceed that to which an adult could be
26 subjected for the same offense.

27 NEW SECTION. Sec. 2. RCW 13.40.308 (Juvenile offender adjudicated
28 of taking motor vehicle without permission in the first degree, theft
29 of motor vehicle, possession of a stolen vehicle, taking motor vehicle
30 without permission in the second degree--Minimum sentences) and 2007 c
31 199 s 15 are each repealed.

32 NEW SECTION. Sec. 3. This act is retroactive, and applies to
33 offenses committed prior to the effective date of this section, to the
34 extent that it leads to the imposition of a more lenient sentence than
35 would be imposed under the law existing prior to the effective date of

1 this section. In all other respects, this act applies prospectively
2 only.

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